

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 4TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE G. PATRI BASAVANA GOUD

WRIT PETITION NUMBER 23470 OF 1990

Between:

1. The Karnataka State Road  
Transport Corporation  
Central Offices  
Bangalore 560 027  
represented by its  
Chief Law Officer

2. The Deputy General Manager  
and Divisional Controller  
KSRTC, BTS Division  
Bangalore 560 027

-Petitioners

(By Sri V. Mukunda Menon, Advocate)

And:

1. Venkatesh Naidu  
son of Jangamaiah  
No.73, 2nd Cross, 6th Main,  
III Stage, J.P. Nagar,  
Bangalore-78

2. The Presiding Officer  
Labour Court  
Bangalore

-Respondents

(By Sri V. Lakshminarayana, Adv. for R-1;  
Smt. M.R. Shanthakumari, HCGP for R-2)

This writ petition is filed under Articles 226 and 227 of the Constitution of India, seeking to quash the award dated 7-9-1989 at Annexure-B made by the Labour Court, Bangalore in Reference No.98 of 1987 to the extent it sets aside the dismissal order passed by the disciplinary authority of the petitioner and directs reinstatement of the respondent No.1 with continuity of service but without back wages and with a direction to withhold two increments with cumulative effect.

This writ petition coming on for hearing this day, the Court made the following:

ORDER

O R D E R

Ms. Shanthakumari, learned HCGP appears for the second respondent.

2. The KSRTC bus in which first respondent was working as conductor was checked near Ashok Pillar, Bangalore on 18-10-1981, and, according to the petitioner management, it was found that the first respondent Conductor had failed to issue tickets to two passengers inspite of having collected fare from them and had re-issued tickets to five passengers. In this regard, a disciplinary enquiry was held against the first respondent, and, on proof of misconduct, he was dismissed from service. He raised an industrial dispute in that regard, that came to be referred to the Labour Court, Bangalore under Section 10(1)(c) of the Industrial Disputes Act, 1947 ('Act' for short). Before the Labour Court, fairness of the domestic enquiry was conceded by the first respondent workman. Labour Court did not find any perversity in the finding reached by the disciplinary authority with regard to proof of charge. Acting under Section 11A of the Act, however, the Labour Court, being of the opinion that the punishment

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of dismissal from service was disproportionate to the said charges, set aside the said order of dismissal and in its place, substituted a lesser punishment of complete denial of back wages in addition to withholding of two increments with cumulative effect. With this lesser punishment, the Labour Court, by its award dated 7-9-1989 at Annexure-B, directed reinstatement of the first respondent with the benefit of continuity of service. In this writ petition under Articles 226 and 227 of the Constitution, petitioner KSRTC seeks quashing of the said award.

3. Fairness of the domestic enquiry having been conceded and the charge having been held proved, the only question that arises is as to whether, in holding that the punishment of dismissal from service was disproportionate to the said charge and in substituting lesser punishment of complete denial of back wages in addition to withholding two increments with cumulative effect, the Labour Court has acted arbitrarily. Sri Mukunda Menon, learned counsel for the petitioner strenuously urges that having regard to the misconduct of pilferage that is established, the first respondent deserves

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the extreme punishment of dismissal from service. Having regard to the circumstances of the case, I am of the opinion that the said extreme punishment of dismissal from service was disproportionate to the charge proved, and, even the lesser punishment that the Labour Court has substituted, namely withholding full back wages and two increments with cumulative effect, is not on the lenient side, and, is a punishment that would adequately <sup>be</sup> commensurate with the charge proved. There is, therefore, no arbitrariness in the Labour Court ~~in~~ acting under Section 11A of the Act.

4. Petition dismissed.

Sd/-  
JUDGE

